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APAC Infrastructure Disputes Have Outgrown the Expert Model Producing Evidence for Them

A commentary on scarcity, specialisation, and the quality of decisions in Asia-Pacific infrastructure and energy disputes

Across Asia-Pacific, infrastructure and energy disputes are growing in value, technical density, and dependence on expert evidence. This commentary argues that the central challenge is no longer whether expert evidence matters, but whether the model through which expertise reaches the decision-maker is evolving as fast as the disputes it is asked to resolve, and why that is, at root, a question of decision quality.

A question of pace, not principle

Across Asia-Pacific, infrastructure and energy disputes are becoming larger, more technically complex, and more dependent on expert evidence. The trend is not cyclical. It reflects a structural change in how projects are owned, financed, engineered and operated. The matters now entering arbitration, litigation, adjudication and dispute-board processes are routinely characterised by multi-jurisdictional ownership, cross-border financing, sophisticated engineering systems, novel renewable technologies, complex grid interfaces, and layered contractual relationships among EPC contractors, original equipment manufacturers, operators, regulators, lenders and state-owned offtakers. As projects have grown more sophisticated, so too have the disputes they generate.

The consequence is a deepening reliance on expert evidence. Courts, arbitral tribunals, adjudicators and dispute boards are all asked to resolve specialised engineering, project-controls, financial and regulatory questions that lie outside the direct experience of any generalist decision-maker.

> *The question is no longer whether expert evidence matters. It is whether the profession's model for producing and presenting that evidence is evolving at the same pace as the disputes it is being asked to resolve — and whether the expertise that reaches the decision-maker is genuinely matched to the issue in dispute.*

The numbers describe a market, not merely a docket

Arbitral institutions publish what the wider disputes market does not, so the figures below are the visible portion rather than the whole. Even so, they describe a market. The leading Asian dispute resolution institutions continue to report record participation and rising dispute values. The Singapore International Arbitration Centre recorded its highest ever total sum in dispute alongside its second-highest caseload in 2025, exceeded only by the outlying 2020 total of 1,063 cases. 2025 saw 886 new cases — 737 SIAC-administered and 149 ad hoc appointments — totalling USD 14.53 billion across 79 jurisdictions. Excluding ad hoc appointments, SIAC reports an average case value of USD 32.18 million, and the highest single administered case value was USD 3.93 billion.[1]

The Hong Kong International Arbitration Centre received 388 new arbitration filings in 2025 (within 582 new cases overall) across 61 jurisdictions, a 10.2 per cent increase on the 352 arbitrations recorded in 2024. The total amount in dispute across all its arbitrations rose to a record HKD 126.2 billion (approximately USD 16.2 billion), up from HKD 106 billion (approximately USD 13.6 billion) in 2024.[2]

At the global level, the International Chamber of Commerce reported approximately USD 299 billion in pending disputes at the close of 2025, and the 2025 Queen Mary University of London and White & Case International Arbitration Survey, the largest to date, with 2,402 respondents, found London the most preferred arbitral seat (selected by 34 per cent of respondents), with Singapore and Hong Kong tied immediately behind at 31 per cent each.[3]

These figures matter for a reason beyond institutional prestige. They mark the migration of the most valuable infrastructure and energy assets in the region into formal dispute resolution, and with them,

[1] Singapore International Arbitration Centre. (2026). *'SIAC Annual Report 2025'*. See also Herbert Smith Freehills Kramer, (2026) '*SIAC Annual Report 2025: Key Statistics, Trends and Takeaways for International Arbitration Practitioners'*, https://www.hsfkramer.com/notes/arbitration/2026-5/siac-annual-report-2025-key-statistics-trends-takeaways-for-international-arbitration. Notably, construction represented 9 per cent of SIAC arbitrations in 2025. Of the 886 new cases, 737 were SIAC-administered and 149 were ad hoc appointments; the USD 32.18 million average is SIAC's figure for cases excluding ad hoc appointments and is not derivable from the headline total.

[2] Hong Kong International Arbitration Centre. (2026). '*HKIAC 2025 Statistics'; HKIAC*. (2025). HKIAC 2024 Statistics. Notably, construction represented 9.2 per cent of HKIAC arbitrations in 2025. https://hkiac.org/about-us/statistics/.

[3] Queen Mary University of London & White & Case LLP. (2025). '*2025 International Arbitration Survey: The Path Forward — Realities and Opportunities in Arbitration*'; International Chamber of Commerce. (2026). '*ICC Dispute Resolution Statistics 2025 (Preliminary)*'. https://www.whitecase.com/sites/default/files/2025-10/white-case-qmul-international-arbitration-survey-report-2025.pdf

the most technically demanding questions those assets can generate. The size of the docket is a proxy for the size of the technical problem now placed before decision-makers.

From delay and defects to systems and regulation

The traditional construction dispute turned on a familiar catalogue: delay, disruption, variations, defects and payment. Those issues have not gone away. What has changed is that a growing share of contemporary disputes sit simultaneously within engineering, economics, regulation, financing and operations, and cannot be resolved by reference to any one of them alone. The contractual question is frequently the least difficult part of the matter.

Recurring examples now include:

- Battery energy storage system degradation and round-trip efficiency loss;
- Renewable performance guarantees and availability warranties;
- Transmission network constraints, congestion and dispatch priority;
- Grid-code compliance, fault ride-through and reactive-power capability — and, increasingly, plant model validation and the commissioning hold-points that turn on it;
- Curtailment and the allocation of curtailment risk;
- Hybrid generation-plus-storage system behaviour;
- Power-market reform and regulatory change events; and
- Commissioning, performance testing and acceptance failures.

These disputes are different in kind, not merely in degree. They require a decision-maker to evaluate not only what a contract obliges, but how a complex technical system has actually behaved within an equally complex regulatory environment, and whether that behaviour was foreseeable, attributable, and compensable.

Compressed schedules, immature grids, deferred problems

The energy transition will accelerate the trend as nations must rapidly expand capacity and energy projects become larger and more complex. The International Energy Agency (IEA) estimates that global energy investment was set to reach a record USD 3.3 trillion in 2025, of which approximately USD 2.2 trillion, roughly twice the figure for fossil fuels, flowed to clean energy technologies including renewables, grids, storage and electrification.[4]

Yet the IEA has repeatedly identified transmission grids, system flexibility, permitting and integration as the binding constraints on deployment, and in 2025 it singled out grid investment as lagging generation, and noted that several developers had pared back ambitions or restructured in the face of higher costs, grid constraints and uncertain policy.[5]

Each of these constraints is a fault line for future disputes. Projects delivered under compressed timetables routinely encounter design evolution, a shift away from single-point EPC wraps towards multi-contract delivery, technology-integration difficulty, network constraints, shifting regulatory requirements, increasing interface risks and commissioning failure. Many of these problems may not surface for years after contract execution, and when they do they tend to present as causation questions that span technical, contractual and regulatory disciplines at once, and often over extended timelines.

[4] International Energy Agency. (2025). *'World Energy Investment 2025 (10th ed.)'*. https://iea.blob.core.windows.net/assets/1c136349-1c31-4201-9ed7-1a7d532e4306/WorldEnergyInvestment2025.pdf

[5] International Energy Agency. (2023). '*Electricity Grids and Secure Energy Transitions*'; IEA. (2025). '*World Energy Investment 2025, finding that grids "remain a constraining factor" on clean-power deployment.*' https://iea.blob.core.windows.net/assets/ea2ff609-8180-4312-8de9-494bcf21696d/ElectricityGridsandSecureEnergyTransitions.pdf

The next generation of energy disputes will, on any realistic view, be more multidisciplinary than the last.

What expert evidence was originally for

The modern reliance on experts invites a question that is too rarely asked: what was expert evidence designed to achieve? The orthodox starting point is Folkes v Chadd, decided in 1782, in which Lord Mansfield admitted the opinion of the engineer John Smeaton on whether the silting of Wells harbour was caused by the removal of a sea-bank.[6] Smeaton was received not as an advocate but as a source of specialised knowledge the court did not possess.

The tension inherent in that role was identified early and remains unresolved. Writing in 1901, Learned Hand observed "The whole object of the expert is to tell the jury, not the facts, as we have seen, but generalized truths derived from his specialized experience. But how can the jury judge between two statements each founded upon an experience confessedly foreign in kind to their own? It is just because they are incompetent for such a task that the expert is necessary at all... The truth of either combatting proposition lies just in its validity as an inference from a vast mass of experience"[7]

Contemporary arbitration has moved a long way from Folkes v Chadd, but the underlying rationale is unchanged. Expert evidence exists because there are questions that legal analysis alone cannot answer[8]. A tribunal may determine what a contract requires; an expert assists it in understanding how a transmission network operates, how a turbine commissioning programme is sequenced, whether a delay was technically foreseeable, or whether a storage system performed to accepted engineering standards. The function is evidential and educational at once: the expert does not decide but enables the tribunal to decide well.

The duty of independence is long established at common law — Lord Wilberforce stated it in Whitehouse v Jordan in 1981 — and its most cited restatement is The Ikarian Reefer[9], in which Cresswell J collected the earlier authorities and held that an expert's duty is to provide independent assistance to the Court — read, in arbitration, as the tribunal — and never to assume the role of advocate for the party instructing them. Those principles carry particular force in international arbitration, where they reinforce the distinction between specialised knowledge and partisan opinion. The increasing complexity of modern disputes does not dilute that obligation; it raises the stakes attached to it.

Viewed through that historical lens, the present challenge comes into focus. As projects specialise, the gap between the technical density of the dispute and the tribunal's own knowledge widens. The more specialised the question, the more it matters that the expertise placed before the decision-maker is genuinely aligned with it. The debate is therefore not about whether experts should do more, they already do, but about whether the expertise reaching the decision-maker reflects the degree of specialisation the modern dispute demands — and whether the expert is, in fact, an expert in the subject matter actually in issue.

The expert supply gap

There is a supply-side problem at the heart of modern infrastructure disputes. The pool of individuals who combine three attributes at once — deep, current, issue-specific technical knowledge; demonstrable

[6] *Folkes v Chadd* (1782) 3 Doug KB 157. Smeaton, builder of the third Eddystone Lighthouse, is often described as the first modern expert witness; Mansfield CJ reasoned that the opinion of a person of skill on a matter of science was admissible to assist the court.

[7] Hand, L. (1901). '*Historical and practical considerations regarding expert testimony*'. Harvard Law Review, 15(1), 40, at p.54.

[8] Jones, D. (2025, October 14). '*Diversity of expertise in arbitration: The past, present and future*'. CIArb Australia Annual Lecture 2025, Chartered Institute of Arbitrators Australia. p.8. Referencing the King's Bench use of experts such as Surveyors, Merchants and Artisans who lived in the community of complainants and had direct experience with the everyday problems.

[9] *National Justice Compania Naviera SA v Prudential Assurance Co Ltd* (The Ikarian Reefer) [1993] 2 Lloyd's Rep 68 (QBD), Cresswell J at 81–82, drawing on Whitehouse v Jordan [1981] 1 WLR 246 (Lord Wilberforce), Polivitte Ltd v Commercial Union Assurance Co Plc [1987] 1 Lloyd's Rep 379 and Re J [1990] FCR 193. Reversed on the facts by the Court of Appeal [1995] 1 Lloyd's Rep 455; the statement of expert duties was not disturbed and continues to be applied.

independence; and the ability to give and defend evidence to a tribunal or court — is far thinner than the market assumes. Each attribute is scarce on its own. Their intersection is scarcer still.

The disputes community has historically screened experts on professional qualification, industry standing and prior testifying experience. Those remain necessary. They are no longer sufficient. The operative question has shifted from "does this person understand infrastructure?" to a far more demanding one: "does this person understand this infrastructure, in this jurisdiction, under these regulatory conditions, at this point in the technology cycle — and does this person hold credible, direct, first-hand experience of the subject matter in issue?"

Experience in conventional thermal generation does not transfer cleanly to battery storage. Familiarity with transmission in mature OECD systems does not confer insight into frontier-market network operation. Mastery of project controls does not, by itself, equip an expert to opine on grid integration, commissioning sequencing or asset operations. As the technical issues become more granular, the supply of experts whose experience actually maps to them thins out, and the thinning is most severe in exactly the domains where dispute values and consequences are highest. This is not a criticism of the experts in the market; it is a description of the market. It is also an observation drawn from practice rather than from measurement: no institution publishes expert-supply data, and none is likely to.

Not merely a busier version of the same market

Asia-Pacific is not simply a higher-volume version of the European or North American dispute market. It is structurally different in ways that sharpen the expertise problem. Project ownership is frequently multi-jurisdictional, with developers, sponsors, lenders and offtakers domiciled across several legal systems and importantly, across varying cultures. Counterparties are often state-owned enterprises, national grid companies or national dispatch centres, whose conduct must be understood against domestic regulatory regimes that may be young, evolving, or only partially codified.

These features compound. Frontier and emerging markets across the region are building grids, market rules and regulatory institutions at the same time as they build projects, so the 'rules of the system' against which a project's performance must be judged are themselves in motion. The 2025 arbitration data confirm where the centre of gravity is moving: Singapore and Hong Kong are now tied in second place behind London among the most preferred seats, and Asian institutional caseloads are increasing year on year.[10]

The practical effect is acute. An expert genuinely seasoned in the operation of, say, the curtailment and dispatch allocations in Vietnam and Mongolia, the transmission constraints in various APAC jurisdictions, the working practices of APAC EPC contractors, and the commercial and cultural conventions shaping how those parties behave on site, is a far rarer commodity than an expert seasoned in the European equivalents. Yet it is precisely that locally grounded, system-specific knowledge that a decision-maker needs in an energy or infrastructure dispute turning on the conditions of a particular market. The structural difference of APAC is, in the end, a structural difference in the availability of fit-for-purpose expertise.

Where causation refuses to stay in one discipline

The APAC renewable project is where every strand of complexity converges. Consider the questions that now arrive in arbitration: was an availability shortfall caused by equipment defect, by grid instability outside the contractor's control, by curtailment instructions from a state dispatch centre, or by a regulatory change that altered the project's operating envelope? Each candidate cause sits in a different discipline, and the answer usually lies in their interaction.

Offshore wind adds vessel availability, weather-window risk and marine logistics. Transmission disputes turn on network security standards and dispatch behaviour. Storage disputes turn on degradation modelling, warranty interpretation and duty-cycle assumptions. In each, the quality of the evidence depends less on general eminence than on the expert's direct familiarity with the specific technical and regulatory environment in dispute. A decision-maker asked to allocate a nine-figure loss between four

[10] Queen Mary University of London & White & Case LLP. (2025).

candidate causes cannot do so reliably on evidence that is authoritative in general but unmatched to the particular system before it.

What a "monumental" case reveals about the model

The long-running Queensland litigation between Santos and Fluor illustrates the scale and multidisciplinary character now associated with some major infrastructure disputes. That the leading example is court litigation rather than arbitration is itself instructive: the pressures described in this commentary are not confined to the arbitral forum. The dispute arose from a reimbursable EPC contract for an upstream component of a coal-seam-gas project between 2011 and 2014, with an original contract value of approximately AUD 3.6 billion and a final cost of approximately AUD 5.4 billion. Santos sought to recover roughly AUD 1.4 billion said to have been overpaid, together with liquidated damages of AUD 15 million for late completion and approximately AUD 140 million for breach of the Australian Consumer Law.[11]

The procedural footprint is the point. In the 2023 Santos v Fluor decision Applegarth J described the parties as "engaged in litigation on a monumental scale".[12] The 2025 judgment of Freeburn J records a reference comprising approximately 1,100 pages of referees' reports, 171 lay witness statements, 76 expert reports and eight joint expert reports, following 62 sitting days of reference hearing. The 2023 judgment separately records 6,115 pages of transcript of oral evidence.[13] The Referees' final report described pleadings as "quite extraordinarily prolix….of Byzantine complexity: labyrinthine, cumbersome and repetitive".[14]

The matter did not end there. Fluor filed an appeal in October 2025 and Santos confirmed in December 2025 that it had received payment of approximately AUD 1.073 billion, subject to the appeal; the Queensland Court of Appeal outcome was not available at the date of this commentary. The first-instance findings should be read with that qualification. Two lessons nonetheless follow. First, no single witness could realistically address every technical issue in a project of this size. The proliferation of experts is a structural response to multidisciplinary complexity, not a litigation indulgence. Second, the 2025 judgment is notable for the weight the Court placed on transparent methodology corroborated by the contemporaneous record, rather than on modelled outputs not clearly tied to it; on delay, the Court declined to require a strict but-for analysis. Decision-makers scrutinise an expert's reasoning as closely as the conclusion.[15]

Santos v Fluor remains unusual in absolute scale, but it is increasingly representative of the direction in which major infrastructure disputes are evolving. As disputes become more sophisticated, expert evidence becomes more specialised and more plural, and the burden on counsel and tribunals to ensure each expert is genuinely matched to a defined issue grows accordingly.

Reframing diversity as a decision-quality problem

Discussion of diversity in arbitration has, understandably, concentrated on the composition of tribunals. Initiatives such as the Equal Representation in Arbitration Pledge have made real and welcome progress on the representativeness of arbitral appointments[16], as have guidelines such as the London Court of International Arbitration's December 2024 Equality, Diversity and Inclusion Guidelines. The Australian Centre for International Commercial Arbitration established a Diversity Committee in November 2022, launched in June 2023. A parallel initiative addresses experts directly: the Equal Representation for

[11] *Santos Limited v Fluor Australia Pty Ltd [2025] QSC 184*. at [31].

[12] *Santos Limited v Fluor Australia Pty Ltd & Anor [2023] QSC 77* at [1].

[13] *Santos Limited v Fluor Australia Pty Ltd [2025] QSC 184* (Freeburn J, 8 August 2025) at [26], [33]. The figure of 6,115 pages of transcript of oral evidence is drawn from Santos Limited v Fluor Australia Pty Ltd & Anor [2023] QSC 77 at [42].

[14] Santos Limited v Fluor Australia Pty Ltd [2025]. Citing Referees' Final Report Part 8 at [2].

[15] Santos Limited v Fluor Australia Pty Ltd [2025] at [238-307]. Specific note in which the court emphasised methodology, transparency of reasoning and the discipline of matching an expert's analysis to the contemporaneous record.

[16] Equal Representation in Arbitration (ERA) Pledge. See also the separate Equal Representation for Expert Witnesses (ERE) Pledge, https://www.expertwitnesspledge.com/.

Expert Witnesses (ERE) Pledge, launched in 2022 as a sister pledge to ERA. Diversity of sex, gender, race, ethnicity, sexual orientation and geography is important in its own right.

However, infrastructure disputes introduce a different and generally under-examined dimension regarding experts. The diversity that most affects the outcome of a technical dispute is diversity of expertise: whether the body of evidence before the tribunal is drawn from a sufficient range of disciplines, jurisdictions and operating environments, and the imperative ingredient of direct subject matter knowledge to match the issues actually in play.

Professor Doug Jones AO argues that diversity among experts and arbitrators carries measurable benefits, and that a diversity of perspectives within a decision-making group improves the quality of its collective reasoning[17]. There is a strong case for diversity within arbitral tribunals, and a stronger one still for diversity in the selection of, and the evidence given by experts.

The object is not diversity as an end in itself. It is to ensure the tribunal hears from the network engineer alongside the project-controls specialist alongside the operations expert alongside the seasoned practitioner who has lived and breathed the discipline for decades. Framed this way, expertise diversity is not a virtue separate from decision quality. It is decision quality.

Amplification without abdication

The rising importance of expert evidence has coincided with rapid adoption of artificial intelligence across legal and technical practice, and with a wave of professional standard-setting in response. In January 2026 the Academy of Experts published guidance on the responsible use of AI by expert witnesses, with a foreword by Lord Neuberger; it is structured around a risk classification framework and a practical checklist, and its core message is unambiguous. Experts remain ultimately responsible for their work, and AI cannot substitute for independent professional judgement.[18]

The surveying profession has gone further still in the binding force of its requirements. The Royal Institution of Chartered Surveyors published its first global professional standard on the responsible use of AI in surveying practice, first issued in September 2025 and effective from 9 March 2026; compliance is mandatory for all members and regulated firms where AI has a material impact on service delivery, with requirements covering governance, transparency, human oversight and disclosure to clients.[19]

The reason for the urgency is concrete. In Ayinde v London Borough of Haringey the Divisional Court addressed material containing fabricated case citations of the kind generative AI can produce, and underscored that the professional duty to verify cannot be delegated to a machine. This is a principle that applies with equal force to an expert's analysis as to a lawyer's pleadings.[20] The demand for guidance is evidently felt within the profession as highlighted by Bond Solon's 2025 survey of expert witnesses, in which 89 per cent of 525 respondents agreed that specific guidance is required for the use of AI by expert witnesses.[21]

The 2025 Queen Mary survey records both the speed of AI adoption in arbitration and the community's expectation that it will grow rapidly. The standards converge on a single discipline, and it is the right one: AI may amplify expertise, but it must never substitute for the judgement on which the credibility of expert evidence, and ultimately the enforceability of the award, depends. The sharper risk is not that

[17] Jones, D. (2025). pp. 25-26.

[18] The Academy of Experts. (2026, January 30). '*Guidance for Expert Witnesses on the Use of Artificial Intelligence (AI).*' Foreword by the Rt Hon Lord Neuberger of Abbotsbury. https://taecdn.b-cdn.net/wordpress/wp-content/uploads/2026/02/fs-26-01-AI.pdf

[19] Royal Institution of Chartered Surveyors. (2025). '*Responsible Use of Artificial Intelligence in Surveying Practice (Global Professional Standard)*', effective 9 March 2026. https://www.rics.org/content/dam/ricsglobal/documents/standards/Responsible-use-of-artificial-intelligence-in-surveying-practice_September-2025.pdf

[20] *R (Ayinde) v London Borough of Haringey; Al-Haroun v Qatar National Bank QPSC [2025] EWHC 1383 (Admin*).

[21] Bond Solon Annual Expert Witness Survey 2025 (published 7 November 2025) p.13. https://www.bondsolon.com/media/knsjspbj/expert-witness-survey-2025.pdf

AI will replace the expert; it is that experts become over-confident in AI-generated analysis that has not been tested against the project record, the technical data and their own professional judgement.[22]

The profession must at least keep pace with this rapidly evolving environment. It would be better placed to stay ahead of it.

Practical responses for counsel, tribunals and the profession

For counsel

Expert selection must become issue-specific rather than reputation-led. The decisive question is not whether a candidate is an experienced expert witness, but whether their experience maps directly onto the disputed issues. This technology, this jurisdiction, this regulatory regime, and direct credible experience. A credentialled generalist and a matched specialist are not interchangeable, and the difference is most consequential in exactly the high-value technical disputes where it is hardest to detect.

Modern expert evidence may be understood as a process of "epistemic deference"[23], whereby decision-makers lacking specialised technical knowledge must rely upon those who possess it. As Brewer observed, decision makers are rarely presented with a single authoritative source of technical truth but instead must choose between competing experts and determine which expertise is most reliable. The quality of the decision therefore depends not merely upon the presence of experts, but upon whether the expertise selected is appropriately aligned to the issue in dispute and capable of assisting the tribunal in a non-arbitrary manner[24]

For tribunals

The existing procedural toolkit is powerful and under-used. Early identification of the genuinely technical issues, tightly defined expert mandates, concurrent evidence ('hot-tubbing'), and active case management can materially improve the quality and efficiency of expert evidence,[25] and reduce the risk of a decision-maker being left to choose between two confident but mismatched specialists, or being unable to rely on either. The question is not only how expert evidence is deployed but who weighs it: in the most specialised disputes there is a case for greater technical expertise on the tribunal itself, and for more ready use of tribunal-appointed experts where the party-appointed model would otherwise leave the tribunal choosing between mismatched specialists.[26]

For the profession

The pathways into expert practice should be broadened. Project directors, commissioning managers, operations specialists and network engineers frequently hold experience that maps precisely onto the disputes now entering arbitration yet sit outside the conventional expert pool. Broadening the pathways is also the most direct answer to the supply gap, because it increases the supply of the attribute that is hardest to acquire late — direct operating experience. Drawing that experience in while holding the line on independence, methodology and professional standards is one of the more promising responses to the scarcity problem this commentary describes.

[22] Queen Mary University of London & White & Case LLP. (2025). Independence and disclosure obligations are framed by IBA Rules on the Taking of Evidence in International Arbitration (2020), Art. 5.2(c), which requires the expert report to contain a statement of independence, and the CIArb Protocol for the Use of Party-Appointed Expert Witnesses in International Arbitration (2007).

[23] Scott Brewer, *'Scientific Expert Testimony and Intellectual Due Process,' Yale Law Journal* 107, no. 6 (1998): pp. 1535–1681.

[24] Brewer, S. (1998). pp 1547-1553.

[25] International Bar Association. (2020). '*IBA Rules on the Taking of Evidence in International Arbitration*', Arts. 5–6 (party-appointed and tribunal-appointed experts). https://www.ibanet.org/MediaHandler?id=def0807b-9fec-43ef-b624-f2cb2af7cf7b

[26] Jones, D.(2025). pp 2-9.

Not a busier forum — a harder one

Asia-Pacific dispute resolution is not merely becoming busier. It is becoming harder. Decision-makers are increasingly required to decide extremely high-value and complex questions about technologies, regulatory frameworks and operating environments that did not exist a generation ago, on records assembled by parties under adversarial conditions. In that setting, success will not be measured by caseload or by the elegance of the legal reasoning alone. It will be measured by the quality of the decisions, and the quality of a decision on a technical dispute can rise no higher than the quality and relevance of the expert evidence on which it rests.

That reframing has a sharp edge. The risk facing the profession is not that expert evidence will matter less; it is that decision-makers will continue to decide ever more specialised disputes on evidence that is impeccably credentialled but imperfectly matched to the issue, and that the resulting awards, however carefully reasoned, will rest on foundations the parties themselves could not fully test. Arbitration's authority rests on party consent and on confidence in the quality of its awards; where the evidence underpinning an award is materially mismatched to the issues, that confidence, and with it the legitimacy on which the forum depends, is liable to erode. Mismatched expertise is not a presentational problem. It is a decision-quality problem, and in a forum whose entire value proposition is the enforceability of a well-founded award, it is ultimately an enforceability problem.

> *The defining question for APAC infrastructure and energy disputes over the coming decade is therefore not whether expert evidence remains important. It is whether the right expertise reaches the decision-maker, at the right time, in the right form — and whether the profession is prepared to treat that as the measure of decision quality it has quietly become.*

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